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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 TARRELL M. SMITH,

10 Petitioner,

11 vs.

12 BRIAN E. WILLIAMS, et al.,

13 Respondents.
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Case No. 2:15-cv-01762-RFB-NJK

ORDER

15 Petitioner has filed a motion to voluntarily dismiss petition for writ of habeas corpus (ECF No.
16 16). Respondents have not responded to the motion. Petitioner understands that the dismissal would
17 be without prejudice.¹ Good cause appearing;

18 IT IS THEREFORE ORDERED that this action is **DISMISSED** with prejudice. The clerk of
19 the court shall enter judgment accordingly and close this action.

20 IT IS FURTHER ORDERED that the court will not issue a certificate of appealability.

21 DATED: July 13, 2017.

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24 **RICHARD F. BOULWARE, II**
United States District Judge

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27 Technically, under Rule 41(a) of the Federal Rules of Civil Procedure, a dismissal would be without
28 prejudice unless the order states otherwise. However, this action itself has been open for more than a
year, and the one-year period of limitation of 28 U.S.C. § 2244(d)(1) was not tolled while the action was
open. Even if the court were to dismiss the action “without prejudice,” any subsequent petition would
be time-barred.